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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,262	10/22/2003	Eric M. Peterson	200310181-1	5440

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EXAMINER

KEEFER, MICHAEL E

ART UNIT	PAPER NUMBER
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2154

MAIL DATE	DELIVERY MODE
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09/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/691,262	Applicant(s) <i>MN</i> PETERSON ET AL.	
	Examiner Michael E. Keefer	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/22/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the Application filed 10/22/2003.

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 6, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Vaidya (US 6279113).

Regarding **claims 1, 6, and 12**, Vaidya discloses:

A network usage analyzer, comprising:

a network query client residing in a first network; and (central data repository 12, in network 11)

a network query server residing in a second network protected by a firewall, the network query server operable to collect usage data associated with the second network and respond to at least one query regarding usage of the second network from the network query client. (Data collector 10 in network 24, as stated in the first paragraph of the detailed description, data collectors can be

firewalls, in addition to their data collector functionality. Data repository 12 polls the data collectors to obtain network security data. (Col. 5 lines 27-29)

Regarding **claim 2 as applied to claim 1**, Vaidya discloses:

wherein the network query client and network query server are operable to communicate using a common protocol. (Since there are no protocol translators, in Fig. 1, the data collectors and data repository must inherently be using a common protocol to communicate.)

Regarding **claim 4 as applied to claim 1**, Vaidya discloses:

wherein the network query server is operable to receive a query from the network query client related to how resources in the second network are used. (the network security data that is polled for indicates whether resources are being used to attack a system. (Col. 5))

Regarding **claim 5 as applied to claim 1**, Vaidya discloses:

wherein the network query server is operable to collect data related to how resources in the second network are used. (the network security data that is returned indicates whether resources are being used to attack a system. The data collectors collect information regarding packet traffic. (Col. 5))

Regarding **claim 11 as applied to claim 6**, Vaidya discloses:

receiving, by the network query server, network configuration information. (Col. 5 lines 66-67 discloses network configuration data being sent (thus inherently received) to the data collectors.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 7-8, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaidya as applied to claims 1, 6, and 12 above, and further in view of Skonnard ("SOAP: The Simple Object Access Protocol").

Vaidya discloses all the limitations of claims 3, 7-8, and 13 except for the firewall explicitly not being reconfigured and that the protocol used to poll the data collectors is SOAP.

The general concept of using SOAP to provide application functionality between networks with firewalls and avoiding reconfiguring them is well known in the art as taught by Skonnard. ("most firewalls block non-HTTP requests. SOAP gets around this limitations to provide intraprocess communication across machines.")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Vaidya with the general concept of using SOAP to provide application functionality between networks with firewalls and avoiding reconfiguring them as taught by Skonnard in order to open as few ports in the firewalls as possible to increase security.

7. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaidya as applied to claims 1 and 12 above, and further in view of Korematsu (US 5978478).

Vaidya discloses all the limitations of claims 9 and 14 except for the repository authenticating with the data collectors.

The general concept of authenticating between a client and server using a request and acknowledgement is well known in the art as taught by Korematsu. (Col. 1 lines 46-59 teach sending a authenticate request and an authenticate acknowledgement.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Vaidya with the general concept of authenticating between a client and server using a request and acknowledgement as taught by Korematsu in order to make sure that possible network attack information is not passed to non-trusted entities.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaidya and Korematsu as applied to claims 6 and 9 above, and further in view of Jackson et al. (US 2002/0049909).

Vaidya and Korematsu teach all the limitations of claim 10 except for authenticating periodically.

The general concept of periodically renewing authentication is well known in the art as taught by Jackson. ([0085] teaches verification of authentication at periodic or continual times.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vaidya and Korematsu with the general concept of periodically renewing authentication as taught by Jackson in order to further increase the security of the authenticated connection.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaidya as applied to claim 12 above, and further in view of Smith (US 7137139).

Vaidya discloses all the limitations of claim 15 except for network configuration information being sent from the data collectors to the depository.

The general concept of sending network configuration data from elements in a network to a depository is well known in the art as taught by Smith. (Abstract, Configuration data for the network element is received and checked against previously stored configuration data.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Vaidya and the general concept of sending network configuration data from elements in a network to a depository as taught by Smith in order to make sure that the configuration of the data collectors has not been altered by an attack.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael E. Keefer whose telephone number is (571) 270-1591. The examiner can normally be reached on Monday through Friday 5:30am-2pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NATHAN FLYNN
SUPERVISORY PATENT EXAMINER

MEK 9/12/2007